

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

DONNELL DRINKS,	:
Plaintiff	:
v.	: Case No. 3:10-cv-1-KRG-KAP
BARRY JOHNSON, <u>et al.</u> ,	:
Defendants	:

MEMORANDUM ORDER

This matter was referred to Magistrate Judge Keith A. Pesto for pretrial proceedings in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Local Rule 72 for Magistrate Judges.

The Magistrate Judge, after giving plaintiff several opportunities to amend the complaint, filed a Report and Recommendation on January 10, 2011, docket no. 14, recommending that plaintiff's complaint be dismissed for failure to state a claim. Upon receipt of plaintiff's objections, the Magistrate Judge ordered service of a portion of the complaint on some of the defendants. Once served, those defendants moved to dismiss the complaint, docket no. 33, a motion which was converted to a motion for summary judgment, docket no. 37; plaintiff filed his own motion for summary judgment, docket no. 39.

The Magistrate Judge filed a Report and Recommendation on June 27, 2012, docket no. 45, recommending that summary judgment be entered for the moving defendants.

The parties were notified that, pursuant to 28 U.S.C. § 636(b)(1), they had fourteen days to file written objections to the Report and Recommendation. Plaintiff filed timely objections to the earlier Report and Recommendation but did not file objections

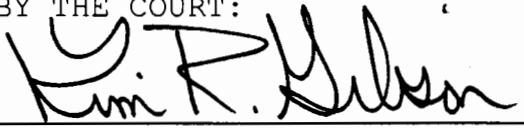
to the latest Report and Recommendation, and the time to do so has expired.

After de novo review of the record, the Reports and Recommendations, the timely objections to the Report and Recommendation of January 10, 2011, and noting the absence of objection to the Report and Recommendation of June 27, 2012, the following order is entered:

AND NOW, this 19th day of July, 2012, it is

ORDERED that defendants' motion for summary judgment, docket no. 33, is granted; the plaintiff's motion, docket no. 39, is denied. The balance of plaintiff's complaint is dismissed for failure to state a claim, without further leave to amend, and without prejudice to litigating his loss of property claims in state court. The Report and Recommendations are adopted as the opinion of the Court. The Clerk shall mark this matter closed.

BY THE COURT:


KIM R. GIBSON,
UNITED STATES DISTRICT JUDGE

Notice to counsel of record by ECF and by U.S. Mail to:

Donnell Drinks CC-7423
S.C.I. Houtzdale
P.O. Box 1000
Houtzdale, PA 16698-1000